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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
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| 09/560,686 | 04/27/2000 | H. Robert Tiffany III | | 4409 |

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EXAMINER

BARFIELD, ANTHONY DERRELL

ART UNIT

PAPER NUMBER

3636

DATE MAILED: 03/21/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

| | | | |
|------------------------------|---------------------------------------|--------------------------------------|---|
| Office Action Summary | Application No. 09/560,686 | Applicant(s) Tiffany et al |  |
| | Examiner Anthony D Barfield | Art Unit 3636 | |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136 (a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1) Responsive to communication(s) filed on _____.

2a) This action is FINAL. 2b) This action is non-final.

3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

Disposition of Claims

4) Claim(s) 1-16 is/are pending in the application.

4a) Of the above, claim(s) _____ is/are withdrawn from consideration.

5) Claim(s) _____ is/are allowed.

6) Claim(s) 1-16 is/are rejected.

7) Claim(s) _____ is/are objected to.

8) Claims _____ are subject to restriction and/or election requirement.

Application Papers

9) The specification is objected to by the Examiner.

10) The drawing(s) filed on _____ is/are objected to by the Examiner.

11) The proposed drawing correction filed on Jan 2, 2002 is: a) approved b) disapproved.

12) The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. § 119

13) Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).

a) All b) Some* c) None of:

1. Certified copies of the priority documents have been received.

2. Certified copies of the priority documents have been received in Application No. _____.

3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

*See the attached detailed Office action for a list of the certified copies not received.

14) Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

Attachment(s)

15) Notice of References Cited (PTO-892)

16) Notice of Draftsperson's Patent Drawing Review (PTO-948)

17) Information Disclosure Statement(s) (PTO-1449) Paper No(s). 6

18) Interview Summary (PTO-413) Paper No(s). _____

19) Notice of Informal Patent Application (PTO-152)

20) Other: _____

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DETAILED ACTION

Specification

1. The substitute specification filed ½/02 has not been entered because it does not conform to 37 CFR 1.125(b) because: The applicant has not stated that “no new matter has been entered” and it appears that new matter has been entered into the specification and drawings as applicant has no support for the cross sectional views of the bench and drawing of a table “having the support members depending angularly from one side of the table”.

Drawings

2. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the supporting members forming an elliptical or a substantially circular shape and the plurality of rib units forming a “table” must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

3. The proposed drawing correction and/or the proposed substitute sheets of drawings, filed on ½/02 have been disapproved because they introduce new matter into the drawings. 37 CFR 1.121(a)(6) states that no amendment may introduce new matter into the disclosure of an application. The original disclosure does not support the showing of the cross sectional views of Figure 2 and a table “having the support members depending angularly from one side of the table”..

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Claim Rejections - 35 USC § 102

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless --

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

5. Claims 1,3-7,10-11 and 16 are rejected under 35 U.S.C. 102(b) as being clearly anticipated by Aginar. Aginar shows a furniture piece (i.e., a bench or chair) having a plurality of rib units (30-40) each having at least one functional surface such that a composite of each of the at least one functional surface of the plurality of rib units define a functional surface (i.e., the back or the seat) of the furniture piece (see Figs 1,8 and 10). Aginar further shows the use of at least one support member (the front and rear legs), interconnecting means (51,52,54) and spacer means (41-42).

6. Claims 1-6,9-12 and 16 are rejected under 35 U.S.C. 102(b) as being clearly anticipated by Thebaud. Thebaud shows a furniture piece (10) having a plurality of rib units (22) each having at least one functional surface such that a composite of each of the at least one functional surface of the plurality of rib units define a functional surface (i.e., a table in Figure 5) of the furniture piece (1). Thebaud further shows the use of at least one support member (16), interconnecting means (20) and spacer means (the other unit (14)).

7. Claims 1-5,7,10-11, and 13-16 are rejected under 35 U.S.C. 102(b) as being clearly anticipated by Draxler. Draxler shows a furniture piece (i.e., a bench or chair(6)) having a

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plurality of rib units (30,31) each having at least one functional surface such that a composite of each of the at least one functional surface of the plurality of rib units define a functional surface (i.e., the back or the seat) of the furniture piece (see Figs 1,8 and 10). Draxler further shows the use of at least one support member (13,15), interconnecting means (50) and spacer means (74,62). Draxler further shows that the support members of each rib unit (30,31) are angularly spaced from the first functional member independently of the remaining support members, as seen in Figures 1 and 4 in order to form wedge.

Claim Rejections - 35 USC § 103

8. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

9. Claims 8-9 are rejected under 35 U.S.C. 103(a) as being unpatentable over Aginar.

Aginar shows all of the teachings of the claimed invention except each rib unit made from metal or plastic. It would have been an obvious matter of design choice to modify each rib unit from either metal or plastic, since applicant has not disclosed that a metal or plastic rib solves any stated problem and it appears that the rib, as taught by Aginar, would perform equally well.

10. Claims 8-9 are rejected under 35 U.S.C. 103(a) as being unpatentable over Draxler.

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Draxler shows all of the teachings of the claimed invention except each rib unit made from metal or plastic. It would have been an obvious matter of design choice to modify each rib unit from either metal or plastic, since applicant has not disclosed that a metal or plastic rib solves any stated problem and it appears that the rib, as taught by Draxler, would perform equally well.

Response to Arguments

11. Applicant's arguments filed 1/2/02 have been fully considered but they are not persuasive.

In response to applicant's argument that the Aginar fails to show certain features of applicant's invention, it is noted that the features upon which applicant relies (i.e., "similar" or "identical" rib units) are not recited in the rejected claim(s). Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993). Furthermore, the examiner is of the opinion that since applicant did not state the each rib unit had to be identically arranged in the same direction, that it is irrelevant whether or not the rib units are interlaced to form the furniture piece. The applicant should note the rib units that form one functional surface of the furniture piece are in fact arranged identically and supported by the "second unit" or supporting member.

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Conclusion

12. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

13. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Anthony D. Barfield whose telephone number is (703) 308-2158.

adb

March 18, 2002



ANTHONY D. BARFIELD
PRIMARY EXAMINER